

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 121 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

VINCENT ONGUSO MAIRURA.....ACCUSED

SENTENCING

1. The accused person is charged with the offence of manslaughter contrary to section 202 as read with section 205 of the penal code. He pleaded guilty to the said charge and was duly convicted.
2. To enable the court to determine on the appropriate sentence a probation report was ordered which has now been filed and in which the probation officer has recommended that the accused person be given a non-custodial sentence. They recommend that the accused be sentenced on probation order, accordingly.
3. In mitigation the accused through his advocate states that the accused is a first offender. He is also very remorseful. The accused did not intend to kill his son. On 24th September, 2012 at 7p.m. the deceased was with his siblings preparing supper when the accused walked in and asked the deceased then aged 9 years why he destroyed the neighbour's crops during the day. The accused took a stick, beat his child and until the child fell on a cooking stone. The accused continued beating the child. He became unconscious and died. The accused however did not intend to kill his child but to chastise him as any father would of his child. The accused is married with a wife and for this offence to jail the accused would, in my view, an act of injustice. In this regard, have also taken into account that the accused has been in custody for now two (2) years and hereby sentence the accused to non-custodial sentence.
4. It is so ordered.

Sentencing dated and delivered at KISII this 15^{Tth} day of December 2014.

C.B. NAGILLAH,

JUDGE.

In the presence of:-

Bigogo holding brief for Moracha for the accused

Majale for the state.

Edwin Mongare - Court Clerk.